REMARKS

Claims 1-13 are pending in the application. Claims 1-13 have been rejected.

No claims have been amended in view of clear differences between elements claimed and the prior art of record namely, *inter alia*, the Henrick reference not teaching a web page with data mining code then uploaded and operated on the visitor computer to obtain technical data then received at a second server with the visitor computer IP address.

Reconsideration and allowance of all claims is respectfully requested in view of the following remarks.

Claim Rejections - 35 U.S.C. § 103

Claims 1 and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over McCreery et al. (U.S. Patent No. 5,787,253) in view of Henrick et al. (U.S. Patent No. 6,055,510).

Claims 2-3 and 8-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over McCreery in view of Henrick and further in view of Reilly et al. (U.S. Patent No. 5,740,549).

Claims 4-6 and 11-13 are rejected un 35 U.S.C. § 103(a) as being unpatentable over McCreery in view of Henrick and in further view of Dobbins et al. (U.S. Patent No. 6,249,820).

In making the rejections, the Examiner reads the Henrick patent as disclosing several steps and elements missing from the McCreery reference, including in particular the steps in claim 1 of (a1) storing a web page on a first server ... including data mining code, and (a2) operating the data mining code on the visitor computer to obtain technical data, and the elements in claim 7 of (b1) a web site node having data mining code provided with media content to a visitor node, and (b2) a communication from the visitor node based upon said data mining code....

The above elements are not in fact disclosed or suggested in Henrick.

The following is Applicants' reading of the Henrick patent:

(1)   An ISP for a customer has knowledge of the customer identify as well as likes and dislikes (Col. 3, lines 2-5).

(2)   An advertiser has contracted with the ISP to provide customer information to them (Col. 3, lines 23-24) under certain circumstances.

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(3)   As the customer's gateway to the Internet, the ISP creates a list of its customers that have a common interest, e.g. have visited a Disney web site in the past (Col. 3, lines 7-8; Col. 4, lines 46-48).

(4)   A direct marketing advertisement is sent via email to this customer list (Col. 3, lines 46-49) with an embedded URL to the advertiser's web site.

(5)   A user clicks on the ULR within the email (Col. 3, lines 21-22) and accesses the Web Site from the ISP hosting the Web Site.

(6)   As the customer's gateway to the Internet, the ISP tracks internally whether a user visits the embedded URL web site and creates a report with the identity of the user who visited the web site (Col. 3, lines 55-57). The ISP can track visits to the web site by associating the temporary IP address of the visitor with an Active User Registry (AUR), all of which happens internally at the ISP server 3 and not through any data mining occurring at the visitor computer (Col. 4, lines 52-53).

(7)   The report is sent to the advertiser as a record of how successful the email campaign was at driving customer's to their Web Site. (Col. 3, lines 58-63)

Throughout the process, the ISP is already aware of the customer data since the customer most likely provided it when they first signed up with the ISP for Internet access. All new data, such as which web site the customer visits, is detected and tracked at the ISP servers. No data mining code operates on the customer's computer as none is needed, the ISP already has (a) the temporary IP address it assigned to the customer when the customer accesses the Internet through the ISP, and (b) the AUR mapping identification of the customer. This information is tracked at the Henrick ISP server 3, and not collected within the visitor computer as with the present invention. The Henrick reference simply describes a method for sharing that preexisting information with an advertiser in a direct marketing situation. Accordingly, there would be no need to incorporate data mining code on the Henrick web page uploaded to a visitor computer as with the present invention.

There is one point of confusing terminology used within Henrick that may have caused a misinterpretation of the thrust of the Henrick reference. In Col. 3, lines 34-44, the Henrick reference makes reference to "the Web Site must include" and then lists functionality that could be interpreted as Data Mining. The Henrick "Web Site" is different from the "web page" recited in the pending claims. A Web Site, as used in Henrick, is fixed at the server

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location. A web page includes the software instructions provided to a visitor computer for use by a browser to construct the page on the visitor's computer. Again, Henrick refers to the hardware and software operating on server 3 and not the actual page delivered to the visitor computer. As the Henrick Web Site cannot be delivered to a customer computer (only a web page from said Site), Henrick does not anticipate certain claim elements of the present application.
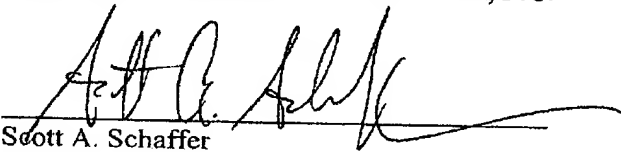
Another point of differentiation is the flow of information and the difference in server topography. Under Henrick, the information flows between customer and ISP (Web Site and Email), and between ISP and advertiser. The customer has no direct contact with the advertiser. The ISP is the hub of information. Under the present invention, the information flows between visitor and web site operator, and visitor and web tracking server. The visitor is then the hub of information.

In view of the clear distinctions between the teachings in the Henrick patent and the claims of the present invention, no further comment is made as to the pertinence of the McCreery, Reilly, and Dobbins references.

For the foregoing reasons, reconsideration and allowance of claims 1-13 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

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